

110TH CONGRESS
1ST SESSION

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To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to support efforts by local or regional television or radio broadcasters to provide essential public information programming in the event of a major disaster, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. LANDRIEU (for herself, Mr. STEVENS, and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to support efforts by local or regional television or radio broadcasters to provide essential public information programming in the event of a major disaster, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “First Response Broad-
5 casters Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) in the periods before, during, and after re-
2 cent major disasters, including Hurricane Katrina,
3 Hurricane Rita, and the terrorist attacks of Sep-
4 tember 11, 2001, local broadcasters across the Na-
5 tion provided a valuable public service by transmit-
6 ting essential disaster-related information to their
7 listeners and viewers;

8 (2) according to the report by the Committee
9 on Homeland Security and Governmental Affairs of
10 the Senate, titled “Hurricane Katrina: A Nation
11 Still Unprepared”, dated May 2006, “It is essential
12 that the news media receive accurate disaster infor-
13 mation to circulate to the public. News media can
14 also help inform the public by reporting on rumors
15 and soliciting evidence and comment on their plausi-
16 bility, if any”;

17 (3) according to testimony provided on Sep-
18 tember 22, 2005, to the Committee on Commerce,
19 Science, and Transportation of the Senate, an esti-
20 mated 100 Gulf Coast broadcast stations were un-
21 able to broadcast as a result of Hurricane Katrina,
22 with approximately 28 percent of television stations
23 and approximately 35 percent of radio stations un-
24 able to broadcast in the area affected by Hurricane
25 Katrina;

1 (4) according to testimony provided on Sep-
2 tember 7, 2005, to the Committee on Energy and
3 Commerce of the House of Representatives, fol-
4 lowing Hurricane Katrina only 4 of the 41 radio
5 broadcast stations in the New Orleans metropolitan
6 area remained on the air in the immediate aftermath
7 of that hurricane;

8 (5) the only television station in New Orleans
9 to continue transmitting its over-the-air signal unin-
10 terrupted during and after Hurricane Katrina was
11 able to do so only as a direct result of steps taken
12 to better protect its transmitter and provide redun-
13 dant production facilities in the region;

14 (6) fuel and other supply shortages inhibit the
15 ability of a broadcaster to stay on the air and pro-
16 vide essential public information following a major
17 disaster;

18 (7) according to the report by the Committee
19 on Homeland Security and Governmental Affairs of
20 the Senate, titled “Hurricane Katrina: A Nation
21 Still Unprepared”, dated May 2006, there were in-
22 stances of Federal authorities confiscating privately-
23 purchased fuel supplies in the area affected by Hur-
24 ricane Katrina;

1 (8) the ability of several broadcasters in Mis-
2 sissippi to remain on the air was unduly com-
3 promised by the confiscation of their privately-pur-
4 chased fuel supplies;

5 (9) practices put in place following Hurricane
6 Andrew to involve broadcasters in disaster response
7 and expedite access by broadcast engineers to dis-
8 aster areas for the purpose of repairing critical-to-
9 air facilities and infrastructure has significantly in-
10 creased the ability of broadcasters in Florida to con-
11 tinue transmitting essential public information dur-
12 ing subsequent major disasters;

13 (10) a June 12, 2006, report to the Federal
14 Communications Commission from the Independent
15 Panel Reviewing the Impact of Hurricane Katrina
16 on Communications Networks recommends that
17 cable and broadcasting infrastructure providers, and
18 their contracted workers, be afforded emergency re-
19 sponder status under the Robert T. Stafford Dis-
20 aster Relief and Emergency Assistance Act (42
21 U.S.C. 5121 et seq.) and that this designation would
22 remedy many of the access and fuel sharing issues
23 that hampered industry efforts to quickly repair in-
24 frastructure following Hurricane Katrina;

1 (11) the partnership of competing radio broad-
2 casters in the wake of Hurricane Katrina, casting
3 aside commercial interests to provide uninterrupted,
4 redundant public information programming from
5 multiple transmission facilities, served the public
6 well and for many hurricane victims was the only
7 source of disaster-related information for many days;

8 (12) other similar models for broadcaster co-
9 operation, employed in Maine and elsewhere, will
10 further prepare the industry to effectively respond to
11 major disasters;

12 (13) following Hurricane Katrina, a Primary
13 Entry Point station in Louisiana, operating only on
14 generator power until commercial power was re-
15 stored 2 weeks after the disaster, was instrumental
16 in providing life-saving information to the general
17 public throughout the area as battery-operated ra-
18 dios were the only source of official news and infor-
19 mation;

20 (14) as of April 18, 2007, there were 32 Pri-
21 mary Entry Point stations located in States, 2 Pri-
22 mary Entry Point stations located in territories of
23 the United States, and 2 Primary Entry Point sta-
24 tions currently under development in Alabama and
25 Mississippi; and

1 (15) in the event of a manmade or natural dis-
2 aster, it is essential to provide for Primary Entry
3 Point stations in any State or territory where there
4 is not a facility, meaning an additional 25 stations
5 are required in—

- 6 (A) Arkansas;
- 7 (B) Connecticut;
- 8 (C) the District of Columbia;
- 9 (D) Delaware;
- 10 (E) Florida;
- 11 (F) Iowa;
- 12 (G) Indiana;
- 13 (H) Kansas;
- 14 (I) Kentucky;
- 15 (J) Michigan;
- 16 (K) Maine;
- 17 (L) New Hampshire;
- 18 (M) Nebraska;
- 19 (N) New Jersey;
- 20 (O) Oklahoma;
- 21 (P) Oregon;
- 22 (Q) Pennsylvania;
- 23 (R) Rhode Island;
- 24 (S) South Dakota;
- 25 (T) Vermont;

- 1 (U) Wisconsin;
- 2 (V) West Virginia;
- 3 (W) American Samoa;
- 4 (X) the Northern Mariana Islands; and
- 5 (Y) Guam.

6 **SEC. 3. DEFINITIONS.**

7 In this Act—

8 (1) the term “Administrator” means the Ad-
9 ministrator of the Federal Emergency Management
10 Agency;

11 (2) the term “disaster area” means an area in
12 which the President has declared a major disaster,
13 during the period of that declaration;

14 (3) the term “first response broadcaster”
15 means a local or regional television or radio broad-
16 caster that provides essential disaster-related public
17 information programming before, during, and after
18 the occurrence of a major disaster;

19 (4) the term “major disaster” has the meaning
20 given the term in section 102 of the Robert T. Staf-
21 ford Disaster Relief and Emergency Assistance Act
22 (42 U.S.C. 5122); and

23 (5) the term “Secretary” means the Secretary
24 of Homeland Security.

1 **SEC. 4. PRIMARY ENTRY POINT STATIONS.**

2 (a) IN GENERAL.—There are authorized to be appro-
3 priated \$6,500,000 to the Administrator of the Federal
4 Emergency Management Agency for facility and equip-
5 ment expenses to construct an additional 25 Primary
6 Entry Point stations in the continental United States and
7 territories.

8 (b) DEFINITION.—In this section, the term “Primary
9 Entry Point station” means a radio broadcast station des-
10 ignated to provide public information following national
11 and local emergencies where there is no commercial power.

12 **SEC. 5. BROADCAST DISASTER PREPAREDNESS GRANT**
13 **PROGRAM.**

14 (a) DEFINITION.—In this section, the term “pilot
15 program” means the Broadcast Disaster Preparedness
16 Grant Program established under subsection (b).

17 (b) ESTABLISHMENT.—Not later than 90 days after
18 the date of enactment of this Act, the Secretary shall es-
19 tablish a pilot program under which the Administrator
20 may make grants to first response broadcasters, to be
21 known as the “Broadcast Disaster Preparedness Grant
22 Program”.

23 (c) PRIORITY.—The Administrator may give priority
24 to an application for a grant under the pilot program
25 that—

26 (1) is submitted—

1 (A) on behalf of more than 1 first response
2 broadcaster operating in an area;

3 (B) in cooperation with State or local au-
4 thorities;

5 (C) on behalf of a first response broad-
6 caster with 50 employees or less;

7 (D) on behalf of a first response broad-
8 caster that is principally owned and operated by
9 individuals residing within the State, county,
10 parish, or municipality in which the broadcaster
11 is located; or

12 (2) provides, in writing, a statement of the in-
13 tention of the applicant to provide disaster-related
14 programming dedicated to essential public informa-
15 tion purposes before, during, and after a major dis-
16 aster.

17 (d) USE OF FUNDS.—A grant under the pilot pro-
18 gram shall be used by a first response broadcaster to—

19 (1) protect or provide redundancy for facilities
20 and infrastructure, including transmitters and other
21 at-risk equipment (as determined by the Adminis-
22 trator), critical to the ability of that first response
23 broadcaster to continue to produce and transmit es-
24 sential disaster-related public information program-
25 ming; or

1 (2) upgrade or add facilities or equipment that
2 will enhance or expand the ability of the first re-
3 sponder broadcaster to acquire, produce, or transmit
4 essential disaster-related public information pro-
5 gramming.

6 (e) FEDERAL SHARE.—The Federal share of an ac-
7 tivity carried out with a grant under this section shall be
8 not more than 50 percent.

9 (f) TERMINATION.—The authority to make grants
10 under the pilot program shall terminate at the end of the
11 third full fiscal year after the date of enactment of this
12 Act.

13 (g) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Secretary to carry
15 out the pilot program \$10,000,000 for each of fiscal years
16 2008 through 2010.

17 **SEC. 6. FIRST RESPONSE BROADCASTER ACCESS FOL-**
18 **LOWING A MAJOR DISASTER.**

19 (a) ACCESS.—Section 403 of the Robert T. Stafford
20 Disaster Relief and Emergency Assistance Act (42 U.S.C.
21 5170b) is amended—

22 (1) in subsection (a)(3)(B), by inserting “(in-
23 cluding providing fuel, food, water, and other sup-
24 plies to first response broadcasters, after providing
25 essential emergency services, health care, and utility

1 restoration services)” before the semicolon at the
2 end; and

3 (2) in subsection (c)(6)—

4 (A) by redesignating subparagraphs (A)
5 and (B) as subparagraphs (B) and (C), respec-
6 tively; and

7 (B) by inserting before subparagraph (B),
8 as so redesignated, the following:

9 “(A) FIRST RESPONSE BROADCASTER.—

10 The term ‘first response broadcaster’ has the
11 meaning given that term in section 707.”.

12 (b) CONFISCATION.—Title VII of the Robert T. Staf-
13 ford Disaster Relief and Emergency Assistance Act (42
14 U.S.C. 5201 et seq.) is amended by adding at the end
15 the following:

16 **“SEC. 707. CONFISCATION FROM FIRST RESPONSE BROAD-**
17 **CASTERS.**

18 “(a) DEFINITION.—In this section, the term ‘first re-
19 sponse broadcaster’ means a local or regional television
20 or radio broadcaster that provides essential disaster-re-
21 lated public information programming before, during, and
22 after a major disaster.

23 “(b) IN GENERAL.—In the event of a major disaster,
24 and to the extent practicable and consistent with not en-
25 dangering public safety, a Federal officer or employee may

1 not confiscate fuel, water, or food from a first response
2 broadcaster if that first response broadcaster adequately
3 documents that such supplies will be used to enable that
4 broadcast first responder to broadcast essential disaster-
5 related public information programming in the area af-
6 fected by that major disaster.”.

7 (c) RESTORATION OF SERVICES.—The Robert T.
8 Stafford Disaster Relief and Emergency Assistance Act
9 (42 U.S.C. 5121 et seq.) is amended—

10 (1) by redesignating section 425 (42 U.S.C.
11 5189e) (relating to essential service providers) as
12 section 427; and

13 (2) in section 427, as so redesignated, by add-
14 ing at the end the following:

15 “(d) FIRST RESPONSE BROADCASTERS.—

16 “(1) DEFINITION.—In this subsection, the term
17 ‘first response broadcaster’ has the meaning given
18 that term in section 707.

19 “(2) IN GENERAL.—In the event of a major dis-
20 aster, the head of a Federal agency, in consultation
21 with appropriate State and local government au-
22 thorities, and to the greatest extent practicable and
23 consistent with not endangering public safety or in-
24 hibiting recovery efforts, shall allow access to the
25 area affected by that major disaster for technical

1 personnel, broadcast engineers, and equipment need-
2 ed to restore, repair, or resupply any facility or
3 equipment critical to the ability of a first response
4 broadcaster to continue to acquire, produce, and
5 transmit essential disaster-related public information
6 programming, including the repair and maintenance
7 of transmitters and other facility equipment and
8 transporting fuel for generators.

9 “(3) NEWS GATHERING EMPLOYEES.—This
10 subsection shall not apply to news gathering employ-
11 ees or agents of a first response broadcaster.”.

12 (d) GUIDELINES FOR PRESS.—

13 (1) DEFINITIONS.—In this subsection—

14 (A) the term “credentialing authority”
15 means a Federal, State, or local government
16 agency that—

17 (i) issues press credentials; and

18 (ii) permits and coordinates access to
19 a designated location or area on the basis
20 of possessing such press credentials;

21 (B) the term “press credential” means the
22 identification provided to news personnel to
23 identify such personnel as members of the
24 press; and

1 (C) the term “news personnel” includes a
2 broadcast journalist or technician, newspaper or
3 periodical reporter, photojournalist, and mem-
4 ber of a similar professional field whose pri-
5 mary interest in entering the disaster area is to
6 gather information related to the disaster for
7 wider publication or broadcast.

8 (2) ACCESS TO DISASTER AREA.—For purposes
9 of permitting and coordinating access by news per-
10 sonnel to a disaster area—

11 (A) any State or local government agency
12 that serves as the primary credentialing author-
13 ity for that disaster area before the date of the
14 applicable major disaster shall remain the pri-
15 mary credentialing authority during and after
16 that major disaster, unless—

17 (i) the State or local government
18 agency voluntarily relinquishes the ability
19 to serve as primary credentialing authority
20 to another agency; or

21 (ii) the State or local government
22 agency, in consultation with appropriate
23 Federal disaster response agencies, assigns
24 certain duties, including primary
25 credentialing authority, to the Federal

1 Emergency Management Agency or an-
2 other appropriate Federal, State, or local
3 government agency; and

4 (B) the Federal Emergency Management
5 Agency and other appropriate Federal disaster
6 response agencies operating in a disaster area
7 shall permit and coordinate news personnel ac-
8 cess to the disaster area consistent with the ac-
9 cess guidelines determined by the primary
10 credentialing authority for that disaster area.

11 (3) CATASTROPHIC INCIDENT ACCESS.—In the
12 event of a catastrophic incident (as that term is de-
13 fined in section 501 of the Homeland Security Act
14 of 2002 (6 U.S.C. 311)) that leaves a State or local
15 primary credentialing authority unable to execute
16 the duties of that credentialing authority described
17 under paragraph (2) or to effectively communicate
18 to Federal officials a determination regarding the in-
19 tent of that credentialing authority to retain, relin-
20 quish, or assign its status as the primary
21 credentialing authority, the Secretary may designate
22 the Federal Emergency Management Agency or an-
23 other Federal agency as the interim primary
24 credentialing authority, until such a time as the
25 State or local credentialing authority notifies the

- 1 Secretary of whether that authority intends to re-
- 2 tain, relinquish, or assign its status.